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VIA CM/ECF Only

April 6, 2020

U.S. District Judge Andrew L. Carter
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, New York 10007

Re: Deleston v. Amsterdam Ale House Incorporated, et al., Case No. 1:19-cv-5050-ALC

Dear U.S. District Judge Carter:

This office represents the Plaintiff Jermaine Deleston (“Plaintiff”) in connection with the above-referenced action. I write in connection with this Court’s Order to Show Cause dated March 9, 2020 requiring Plaintiff to show cause as to why this case should not be dismissed as to defendants Amsterdam Ale House Incorporated d/b/a Amsterdam Ale House and Heather Brand Fourth LLC (collectively “Defendants”) for lack of prosecution or to file a motion for default judgment. (D.E. 14).

Plaintiff Jermaine Deleston suffers from spinal muscular atrophy and uses a wheelchair for mobility. Plaintiff alleges various violations under Title III of the Americans with Disabilities Act (“ADA”), New York State Human Rights Law and New York City Human Rights Law with respect to the facility commonly known and referred to as Amsterdam Ale House, located at 340 Amsterdam Avenue, New York, New York 10024.

This action was commenced by Plaintiff through his filing of a complaint on May 30, 2019 (D.E. 1). On June 7, 2019, the Defendants were served with, among other things, a summons and complaint in this action via personal service upon an authorized agent in the Office of the New York Secretary of State (D.E. 7 and 8). Despite being properly served through the New York Secretary of State the Defendants have not yet appeared and/or answered the Complaint in this action. Moreover, there has been no request by the Defendants for an extension of time to file an answer or otherwise move as to the Complaint.

On September 23, 2019, Plaintiff filed a Request for a Certificate of Default (D.E. 9 and 10). On September 23, 2019, the Clerk of the Court entered a Certificate of Default against the Defendants for their failure to answer or otherwise move with respect to the Complaint within the time limits required under the Federal Rules of Civil Procedure (D.E. 11). On October 3,

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2019, Plaintiff served a copy of the Clerk's Certificate of Default (D.E. 11), and an additional copy of the Summons and Complaint (D.E. 1, 5 and 6), upon the Defendants (D.E. 12). On November 26, 2019, Plaintiff served another courtesy copy of the Clerk's Certificate of Default (D.E. 11), and the Summons and Complaint (D.E. 1, 5 and 6), upon the Defendants (D.E. 13). On March 10, 2020, Plaintiff served a copy of the Order to Show Cause, dated March 9, 2020 (D.E. 14), upon the Defendants (D.E. 15).

On June 26, 2019, my office was contacted by the Vice President of Amsterdam Ale House who we instructed to retain counsel to contact us. On March 10, 2020, my office served a courtesy copy of the Order to Show Cause, dated March 9, 2020 upon the Vice President of Amsterdam Ale House via email. To date, we have received no response.

Since the commencement of this action, Plaintiff has been diligent in his efforts for the Defendants to appear in this action. Despite this, the Defendants have failed to appear or answer the summons and complaint. Accordingly, we submit this order to show cause to respectfully request that this action should not be dismissed for lack of prosecution in that Plaintiff has made a good faith effort to prosecute this action, or at the very least have the Defendants appear for purposes of obtaining a quick and amicable resolution without the need for motion practice. Moreover, we respectfully request an extension of time to file a default judgment as our office (and we assume the subject restaurant) is temporary closed due to the COVID-19 pandemic. Upon the government's lifting of the stay at home order, we would like for additional time to make a final effort in having the Defendants appear before filing for our default judgment application.

We thank this Honorable Court for its time and consideration in this matter.

Respectfully submitted,

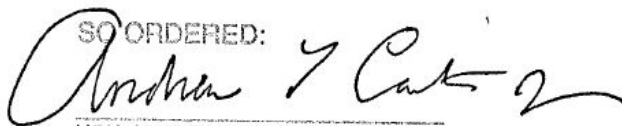
BASHIAN & PAPANTONIOU, P.C.

/s/ *Erik M. Bashian*

Erik M. Bashian, Esq.

Plaintiff's request for an extension of time is
GRANTED. Should Defendant fail to
appear in this action, Plaintiff shall file a
motion for default judgment on or before
July 6, 2020.

Dated: April 10, 2020

SO ORDERED:


HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE